REMARKS

Claims 1-8 are all the claims pending in the application. By this Amendment, Applicant editorially amends claim 8. The amendments to claim 8 were made for reasons of precision of language and consistency, and do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. In addition, Applicant adds claims 9 and 10, which are clearly supported throughout the specification *e.g.*,

I.   Preliminary Matters

The Examiner has failed to acknowledge Applicant's claim to foreign priority and indicate receipt of the certified copies of the priority documents. Applicant's representatives have reviewed the USPTO website, which indicates that a copy of the priority documents was placed in the file. Accordingly, the Examiner is respectfully requested to acknowledge foreign priority in the next office communication.

The Examiner has returned the initialed form PTO/SB/08 submitted with the Information Disclosure Statement filed on March 26, 2004 and indicated acceptance of the drawing figures filed on March 26, 2004.

II.   Summary of the Office Action

Claim 8 is rejected under 35 U.S.C. § 112, first paragraph and under 35 U.S.C. § 101. Claims 1-8 are rejected under 35 U.S.C. § 102(a) and 35 U.S.C. § 103(a).

III.   Claim Rejections under 35 U.S.C. § 112

Claim 8 is rejected under 35 U.S.C. § 112, first paragraph. Specifically, the Examiner contends that a computer product is not described in the specification to enable one of ordinary

skill in the art (*see* page 3 of the Office Action). Applicant respectfully traverses these grounds

of rejection at least in view of the following exemplary comments.

One of ordinary skill in the art in light of the specification would readily known how to

place computer instructions on a computer readable medium to form a computer product.

Furthermore, it is noted that <u>there is a strong presumption that an adequate written description of</u>

<u>the claimed invention is present when the application is filed</u>. *In re Wertheim*, 541 F.2d 257, 263,

191 USPQ 90, 97 (CCPA 1976); MPEP § 2163. That is, with respect to the original claim 8,

there is a strong presumption of adequate support and the burden remains with the USPTO to

show otherwise.

In view of the above and the self-explanatory amendment to claim 8, Applicant

respectfully requests the Examiner to withdraw this rejection.

IV.   Claim Rejections under 35 U.S.C. § 101

Claim 8 is rejected under 35 U.S.C. § 101 as being allegedly directed to non-statutory

subject matter, which is "a computer product" (*see* pages 2-3 of the Office Action). Applicant

respectfully requests that the Examiner withdraw this rejection in view of the self-explanatory

claim amendments being made herein.

V.   Prior Art Rejections

Claims 1-8 are rejected under 35 U.S.C. § 102(e) as being anticipated by WO 00/13376

to Nelson (hereinafter "Nelson") and under 35 U.S.C. § 103(a) as being unpatentable over

Nelson. Applicant respectfully traverses these grounds of rejections at least in view of the

following exemplary comments.

Independent claim 1 recites: "wherein a node has at least <u>a first receive port and a second</u> <u>receive port</u>...at the first receive port, receiving a first data telegram <u>at a first timer value,</u> <u>wherein the first data telegram has an identifier</u>; in a memory of the node, storing user data of the first data telegram in an address space that is <u>assigned to the identifier</u>; at the second receive port, receiving a second data telegram <u>at a second timer value</u>, wherein the second data telegram has <u>the identifier of the first data telegram</u>; and if <u>the first timer value and the second timer value are</u> <u>not identical, overwriting the address space and the stored first timer value of the first data</u> <u>telegram with user data of the second data telegram and with the second timer value of the</u> <u>second data telegram</u>; wherein a respective one of the first and second timer values, at which a respective one of the first and second data telegrams is received, corresponds to a cycle number of an isochronous cycle during which the respective one of the first and second data telegrams is received."

The Examiner contends that Nelson discloses or suggests each of the above-identified unique features of claim 1 (*see* pages 4-6 of the Office Action). Applicant respectfully disagrees. Applicant has carefully reviewed Nelson's disclosure of redundant path data communication, which lacks a) having 2 ports, b) comparing arrival times of the packets that have assigned identifiers, and c) overwriting the address space and the timer value.

In particular, Nelson discloses a redundant packet data communication system, which includes a transmitter transmitting a first packet and a second packet. The first packet has a first label indicating a receiver and a first path. The first packet also has a first packet identifier and a payload. The second packet has a second label indicating the receiver and a second path. The second packet has a second packet identifier and a payload substantially similar to the first packet's identifier and payload. In Nelson, the system also includes a receiver that receives the

first packet via the first path. The receiver receives the second packet via the second path. The receiver <u>determines from the first packet identifier and the second packet identifier that the packet payloads are substantially similar, and discards one of the packets</u> (*see* Figs 5-7; Abstract and pages 7 to 11).

Nelson, however, does not disclose or suggest <u>having two ports</u>. In other words, in Nelson, the first and second packets may be received via same port. In short, in Nelson, there is no suggestion to the contrary.

In addition, Nelson discloses comparing identifier of the packet. The Examiner alleges that the identifiers of the packets correspond to the timer values. Applicant respectfully disagrees. First, there is no disclosure or suggestion in Nelson that the identifiers are <u>time values at which the packet is received</u> as required by claim 1. In short, Nelson does not disclose or suggest the packet identifiers being arrival times of the packets. Furthermore, if Nelson's packet identifiers correspond to the timer values, then Nelson does not disclose or suggest the packet identifiers as set forth in claim 1. In short, Nelson only discloses a packet identifier and does not disclose or suggest a packet identifier <u>and the arrival time value</u> for each packet. In short, Nelson discloses comparing <u>packet identifiers</u> and <u>not arrival times</u> *i.e.*, timer values.

Furthermore, Nelson simply discloses using the duplicate packet if the protection packet is missing. Nelson does not disclose or even remotely suggest <u>overwriting the address space and the stored first timer value of the first data telegram with user data of the second data telegram and with the second timer value of the second data telegram</u>. In other words, Nelson does not disclose or even remotely suggest overwriting the address space and timer value.

For at least these exemplary reasons, claim 1 is patentably distinguishable (and is patentable over) Nelson. Accordingly, Applicant respectfully requests that the Examiner withdraw this rejection of claim 1 and its dependent claims 2-5.

Next, independent claims 6-8 recite features similar to, although not necessarily coextensive with, the features argued above with respect to claim 1. Therefore, arguments presented with respect to claim 1 apply with equal force here. For at least substantially analogous exemplary reasons, therefore, independent claims 6-8 are patentably distinguishable from (and are patentable over) Nelson.

VI.   New Claims

In order to provide more varied protection, Applicant adds claims 9 and 10, which are patentable by virtue of their dependency and for additional features set forth therein.

VII.   Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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